The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte WILLIAM J. DONOVAN and JOSEPH P. ZAMZOW

Appeal No. 2005-1534
Application No. 09/437,278

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ON BRIEF

Before GROSS, BLANKENSHIP, and MACDONALD, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 2-4, 7, 8, 10, 11, 14-20, and 24-30, which are all the claims remaining in the application.

We reverse.

BACKGROUND

The invention is directed to a travel pricing system and method. Reservation records (e.g., fare records) are received from service providers that reflect updates with respect to travel attributes (e.g., effective dates, prices, or applicable rules) that may conflict with older attributes of records that have been previously stored in a data store. A received record is stored in association with a time stamp, such that a historical record of data may be maintained that simplifies searching of the travel pricing system data store. Representative claim 24 is reproduced below.

24. A travel pricing system, comprising:

a data store; and

a server coupled to the data store, the server:

receiving from a service provider a first reservation record relating to a first type of record, the first reservation record comprising travel attributes and a first version number, the travel attributes arranged in a first record format;

associating the first reservation record with a first time stamp;

adding the first reservation record and time stamp to the data store using the first reservation record format;

receiving from the service provider a second reservation record relating to the first type of record, the second reservation record comprising at least a portion of the travel attributes associated with the first reservation record and a second version number different from the first version number, the travel attributes arranged in a second record format different from the first record format;

associating the second reservation record with a second time stamp; and

adding the second reservation record and time stamp to the data store using the second reservation record format.

The examiner relies on the following references:

Dettelbach et al. (Dettelbach)	5,253,166	Oct. 12, 1993
Bohannon et al. (Bohannon)	6,125,371	Sep. 26, 2000 (filed Aug. 19, 1997)
Barney et al. (Barney)	US 6,212,512 B1	Apr. 3, 2001 (filed Jan. 6, 1999)

Claims 24, 3, 4, 29, 14, 15, 19, 20, 25, 27, and 30 stand rejected under 35 U.S.C. § 103 as being unpatentable over Bohannon and Dettelbach.

Claim 16 stands rejected under 35 U.S.C. § 103 as being unpatentable over Bohannon, Dettelbach, and "Official Notice."

Claims 2, 26, 7, 8, 10, 11, 17, 18, and 28 stand rejected under 35 U.S.C. § 103 as being unpatentable over Bohannon, Dettelbach, and Barney.[1]

We refer to the Final Rejection (mailed Oct. 22, 2003) and the Examiner's Answer (mailed Jul. 14, 2004) for a statement of the examiner's position and to the Brief (filed Apr. 2, 2004) and the Reply Brief (filed Sep. 14, 2004) for appellants' position with respect to the claims which stand rejected.

[1] Barney should also have been applied against claim 27, which depends from independent claim 26.

OPINION

Appellants argue, with respect to instant claim 24, that Bohannon fails to teach receiving from the service provider a second reservation record relating to the first type of record, and adding the second reservation record and time stamp to the data store using the second reservation record format. (Brief at 9-10.)

The rejection submits (Answer at 3-4) that Bohannan teaches a system that includes receiving from a service provider a first record relating to a first type of record, referring to Figure 1 and column 3, lines 52 through 60. The rejection further asserts that Bohannan teaches receiving from a service provider a second record relating to the first type of record, "e.g. update to the record/file," at Figure 1, column 3, lines 52 through 60 and column 4, line 55 through column 5, line 48.

> [A]s per the Appellant's arguments regarding Bohannon on pages 9-10, the Examiner understands the update transaction described in Bohannon (e.g. col. 4, lines 10-26) to mean that when an update transaction is desired, the system archives a version of the file before modifications are made "to make this file the most recent 'past' version" (i.e. a first record relating to a first type of record) (col. 4, lines 15-27) and then makes the modified copy of the file "the new 'current' (or successor) version of the same." In other words, the Bohannon system receives (e.g. from a service provider) and maintains different versions of records with different timestamps. (i.e. a first record and a second record relating to the first type of record.)

(Answer at 23.)

In appellants' view, Bohannon merely discloses that an update transaction is received and that a copy of the existing record is internally created and stored, which is

not equivalent to reception and storage of a second record as claimed. (Reply Brief at 2-3.)

Bohannon teaches at column 3, lines 57 through 60 that a "data record" in the context of the disclosure is defined broadly to mean any file, entry, record, field, item and other data associated with at least one database. The process described at columns 4 and 5 includes read-only access and update transactions. In the update transactions, a copy of the most recent "past" version of the data record is modified, rendering a new or "successor" version of the data record. An "update transaction" is defined as a transaction that "updates" data records, or, more broadly, wants access to a current version of a particular data record. Col. 4, ll. 10-14.

The allocation of burdens requires that the USPTO produce the factual basis for its rejection of an application under 35 U.S.C. § § 102 and 103. In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984) (citing In re Warner, 379 F.2d 1011, 1016, 154 USPQ 173, 177 (CCPA 1967)). The one who bears the initial burden of presenting a prima facie case of unpatentability is the examiner. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). However, sufficient evidence in support of unpatentability must be discerned by the Board. See In re Zurko, 258 F.3d 1379, 1386, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001) (in a determination of unpatentability "the Board must point to some concrete evidence in the record in support of...[the]...findings.").

The Bohannon system receives data to update previously stored data records. We agree with appellants that the reference fails to teach receiving and storing first and second records in the manner that the rejection alleges. Further, we find that any combination with the teachings of Dettelbach to meet the requirements of instant claim 24 could only arise from improper hindsight reconstruction of the invention claimed. As such, the rejection fails to set forth a prima facie case for obviousness in failing to account for all limitations of the claim.

Independent claims 26 and 29 contain similar limitations to those of claim 24 that we have addressed. The Barney reference and the taking of Official Notice do not remedy the basic deficiencies in the proposed combination of Bohannon and Dettelbach. We thus cannot sustain the rejection of any claim on appeal.

CONCLUSION

The rejection of claims 2-4, 7, 8, 10, 11, 14-20, and 24-30 under 35 U.S.C. § 103 is reversed.

REVERSED

ANITA PELLMAN GROSS
Administrative Patent Judge

HOWARD B. BLANKENSHIP
Administrative Patent Judge

ALLEN R. MACDONALD
Administrative Patent Judge

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